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SENSITIVE  
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STATE FOR EAP/MTS AND EEB/ESC/IEC/ENR  
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TAGS: [ECON](#) [EMIN](#) [EINV](#) [ID](#)  
SUBJECT: GOVERNMENT SEEKS FLEXIBILITY IN MINING  
REGULATIONS, BUT ACKNOWLEDGES POLITICAL PRESSURE IS STRONG

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11. (SBU) Summary. In a meeting with Indonesian Mining Director General Bambang Setiawan, representatives from Canada, Australia, the EU and the United States expressed concerns regarding draft regulations for the new mining law. Setiawan acknowledged concerns, but he stressed the need to satisfy some Parliamentary demands. Indonesia will mandate that mining companies give priority to local mining service companies, but Setiawan agreed to listen to counter-proposals. The government will try to be flexible with local smelting requirements, although increased domestic copper smelting remains a priority. Indonesia hopes to renegotiate all current mining contracts of work holders, although Setiawan claims he will consider each company's situation. End Summary.

12. (U) Representatives from the Canadian, Australian, EU, and U.S. missions to Indonesia met with Dr. Bambang Setiawan, Director General of Mining, Coal and Geothermal at the Indonesian Ministry of Energy and Mineral Resources and Director of Mine Inspection Mangantar Marpaung on August 28 to discuss government and industry concerns with Indonesia's new Mining Law. The Indonesian government has not yet released the implementing regulations for the law, although they expect to finalize them before the new government takes office on October 20.

13. (SBU) All four missions had heard concerns from their business communities regarding the new law. Although most foreign investors acknowledge that the law solves a number of problems that exist in the current mining regulations, they are worried by a small number of provisions: an in-country smelting requirement; mandatory preferences for local and national companies; mandatory renegotiation of existing mining contracts of work; smaller mining concession areas; and mandatory divestment, currently set at 20%.

#### Political Requirements and Possible Flexibility

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14. (SBU) DG Setiawan stressed the political nature of the new law. Although he recognized that the law has some unfavorable implications for investors, he claims that there are strong political interests in Parliament that the government was unable to overcome. He wants Parliament to recognize that the government is trying to satisfy its goals, while still keeping the investment climate favorable.

15. (SBU) Setiawan pointed out that the implementing regulations will be split into two types: a presidential

decree and a ministerial decree. He stressed that many of the more controversial elements of the law, including the in-country processing and the distinction between foreign invested and local/national services firms are in the ministerial decree. The ministerial decree will give the ministry more regulatory flexibility, because it does not require interagency approval for future changes.

#### Message on Foreign Investment Unclear

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¶6. (SBU) The new law and current draft regulations contain provisions that differentiate mining service companies into three categories: local (owned by a local government or province), national (private company majority owned by Indonesians), and other (foreign-invested firms). The law requires mining companies to give preference to local and national service companies. The Australian Embassy representative objected to the requirement, noting that this provision is contrary to the spirit of the Investment Law, which makes no distinction between foreign and domestically owned companies established locally. Australia agreed to follow up with a proposal to DG Setiawan to mitigate the negative impact of this regulation.

¶7. (SBU) According to Marpaung, DPR members claim to be wary of foreign mining service companies for several reasons: foreign companies repatriate their profits, putting a strain on the national balance of payments; foreign companies are considered to employ fewer Indonesians; foreign companies may leave in time of crisis; and local companies want a greater share of the market. Marpaung stressed that he did not agree

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with these arguments, but he implied that the Ministry was helpless to overcome them.

#### Smelting Still a Goal

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¶8. (SBU) DG Setiawan affirmed Indonesia's intent to go ahead with an in-country processing requirement for local ore. He repeated the Indonesian belief that smelting will lead to significant value-added, so the Indonesian government would encourage mining companies to go as far downstream as possible in-country.

¶9. (SBU) The Ministry will make the processing mandate mineral-specific and modify the regulation based on production levels and processing requirements, according to DG Setiawan. For example, he said that bauxite could be processed into alumina rather than aluminum, and lead and zinc may get a waiver, because current production levels are too low. However, the Indonesian officials were determined to increase local copper smelting.

#### What To Do With Contracts of Work?

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¶10. (SBU) The Indonesian government intends to renegotiate mining contracts of work under the new law, but DG Setiawan stressed that he wants true negotiations. He does not intend to "kill investment" with strong-arm tactics. Setiawan repeatedly stressed that he needs to show publicly that he has negotiated with the contract-holders, and that they have agreed to make changes. He recognized that different companies would require different outcomes, but the visible process of renegotiation was more important to him.

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